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**Remarks/Arguments:**

**I. Introduction**

Upon entry of the present amendment, claims 1-19 will be pending in this application. Claims 1-8 have been withdrawn from consideration and claims 16-17 have been cancelled. In the interest of advancing prosecution of this application, Applicant will cancel the withdrawn claims without prejudice upon issuance of a notice of allowance. Claims 9, 11, and 14 have been amended to clarify certain aspects of the invention. Support for these amendments appears in the specification and is discussed in the below chart. New claims 18 and 19 are discussed below. Based on the following remarks, Applicant respectfully requests reconsideration and allowance of the pending claims.

**II. 35 U.S.C. § 112**

The Examiner has rejected claims 9, 11, and 14 under 35 U.S.C. § 112, second paragraph, as being indefinite. Without acquiescing to the Examiner's rejections, Applicant has made the following amendments:

Examiner's rejection	Applicant's response
Claim 9 is indefinite because of the use of the term "may be." ("what 'may be' to one, 'may not be' to another")	Claim 9 has been amended to clarify that the shelf is adapted to have its width or depth increased or decreased
Claim 11 is indefinite because it is unclear whether the upper and lower pins together or separately each have a bend	Claim 11 has been amended to clarify that <i>each</i> of the upper mounting pin and the lower mounting pin comprises a single bend (support for this amendment appears in the specification at page 14 and in Figure 16)
Claim 14 is indefinite because it appears to be contradictory to what is shown in the	Claim 14 has been amended to clarify that the mounting rails and the mounting pins

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drawings, in that the elements of claim 14 are made from wire but not a single wire structure	comprise a one-piece structure (in contrast to a mounting system that requires multiple parts, as in the prior art; this is discussed in more detail below) (support for this amendment appears in the specification at page 14 and in Figure 16)
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### III. 35 U.S.C. § 103

The Examiner has rejected claims 9-15 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,205,421 to Bustos and U.S. Patent No. 5,133,463 to Merl. The Examiner states that Bustos discloses a shelving unit as claimed, but admits that Bustos does not disclose (a) the depth of the shelf as able to be increased/decreased (claim 9), (b) the front edge of the shelf bent upwards at a right angle (claim 12), (c) the front edge of the shelf including a frame (claim 13), and (d) the shelf, rails and pins including a single wire structure (claim 14). However, the Examiner submits that Merl teaches an adjustable wire shelf whereby the depth may be adjusted and that the missing elements (a)-(d) are supplied by combining Bustos and Merl together. Applicant respectfully traverses this rejection and requests reconsideration and withdrawal thereof.

First, Applicant points out that the claims under examination are illustrated particularly well in Figure 16, which shows mounting rails (161, 162), mounting pins (142, 144), and support frame (120). As recited in claim 9, this embodiment allows the shelf to be mounted to the support frame by inserting the upper mounting pins in first openings of the receiving surface. If it is desired for the shelf to be horizontal, then the lower mounting pin is positioned against the front receiving surface of the vertical member. If it is desired for the shelf to slope, then the lower mounting pin is positioned inside second openings on the front

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receiving surface of the vertical member. As shown in the figures, the shelf is also adapted to have its width or depth increased by extending or decreased by retracting one portion of the shelf with respect to another portion of the shelf. Neither Bustos, nor Merl, nor their combination teaches or suggests this combination of features.

**A. Bustos and Merl do not disclose the claimed mounting system**

First, the Bustos and Merl shelves (shown in the figures reproduced below) are mounted by intricate bracket systems. Neither teaches or discloses the mounting rail and mounting pin system as claimed.

**1. Bustos**

The Bustos bracket (reproduced below) is a solid triangular piece, with tangs that extend out the back of the bracket at certain locations. Notches (85a, 86a) on tangs (85, 86) of bracket 87 are inserted into holes on the gondola display. If the shelf should be tilted down, different notches on tang are engaged.

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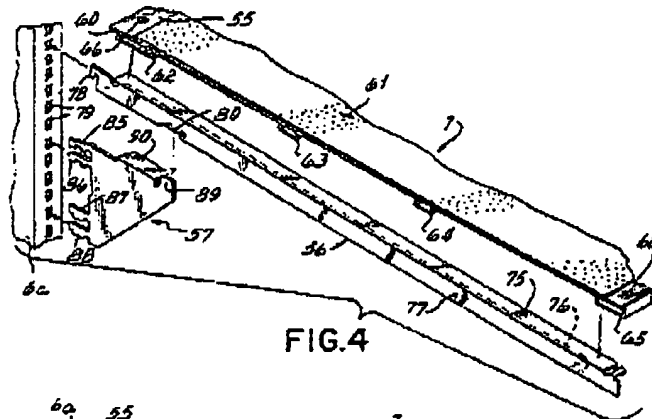


FIG. 4

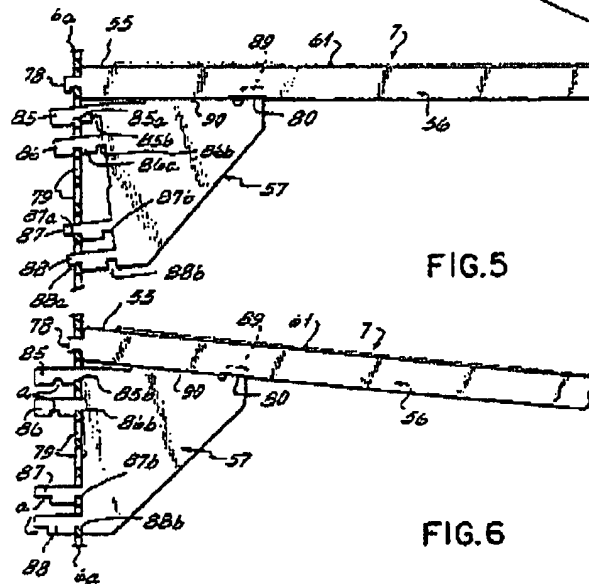


FIG. 5

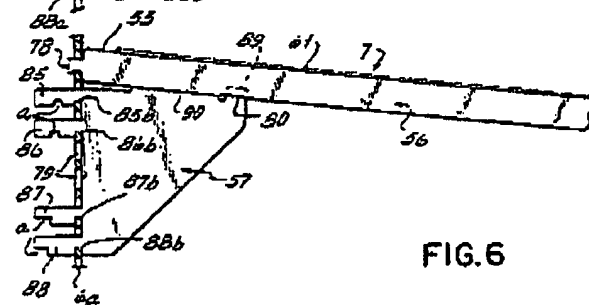


FIG. 6

Bustos does not teach or disclose the use of mounting rails and mounting pins as claimed by the present invention. Manufacturing the specific tang and notch widths, depths, and locations required by Bustos can be expensive and difficult. By contrast, the present design provides for more efficient manufacturing that can be accomplished less expensively, leading to a distinct manufacturing advantage. (See, e.g., specification at page 14, lines 5-9 and Figure 16.) Specifically, Figure 16 shows an example of the mounting rail (161,162) and

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mounting pin (142, 144) design. This system is entirely different from the mounting bracket/tang system of Bustos. There are only two mounting pins to be inserted into support frame, with the two mounting pins providing sloping options, depending upon how they are inserted into the support frame.

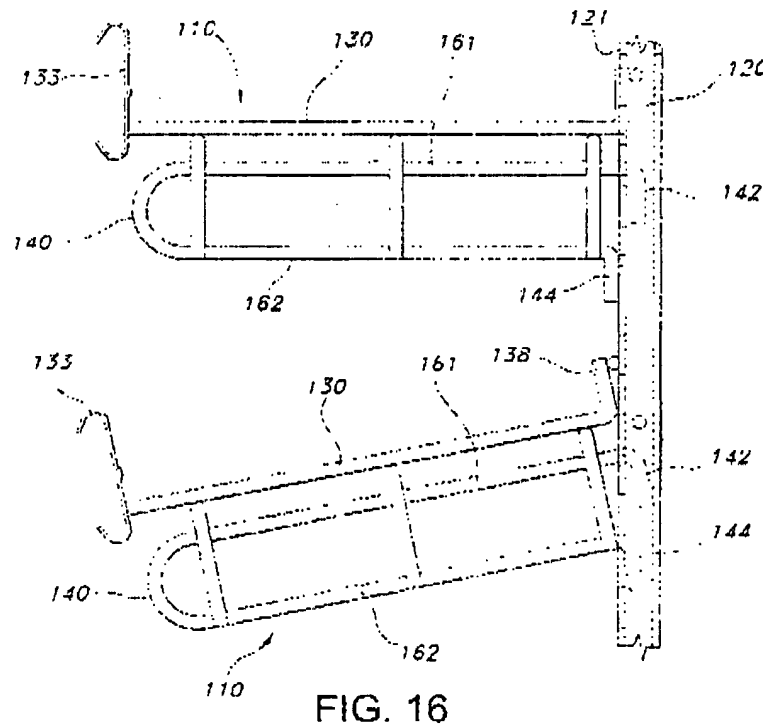


FIG. 16

This feature is not shown, described, or suggested by Bustos.

## 2. Merl

Likewise, the Merl patent also employs an intricate bracketing system. As shown below, its support elements 62 have slots 70 that line up with openings 72 on intermediate elements 62, and they are held in place by fastening screws 66.

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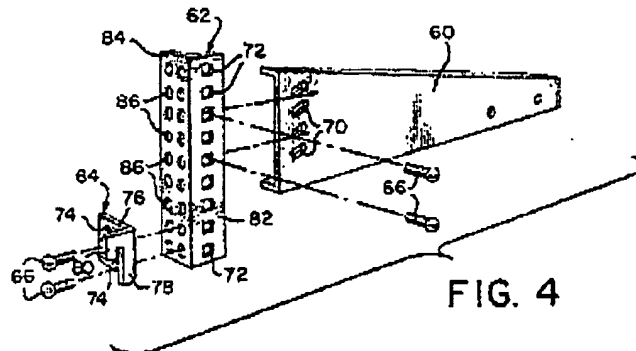


FIG. 4

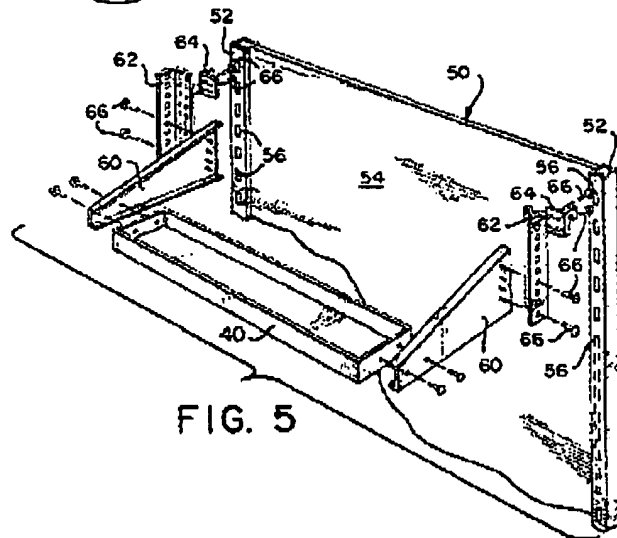


FIG. 5

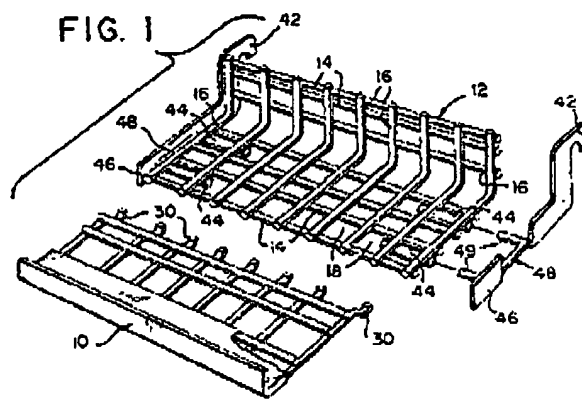
Merl does not teach or disclose the use of mounting rails and mounting pins as discussed above. Instead, the detailed bracketing system of Merl can take more set-up time and be more expensive to manufacture than embodiments of the present invention.

**B. Bustos and Merl do not disclose the claimed adjustability**

Second, neither Bustos nor Merl, nor their combination teaches the claimed shelf adjustability. Claim 9 recites that "the shelf is adapted to have its width or depth increased by extending or decreased by retracting one portion of the shelf with respect to another

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portion of the shelf." The Examiner admits that this feature is not taught or disclosed by Bustos, but turns to Merl to provide the missing disclosure. However, the Merl shelves are adjusted by hooking and unhooking hook elements 30 from parallel support rods 14, as shown below.



By contrast, Applicant's invention can be adjusted by extending or retracting portions of the shelf (see, e.g., Figures 7 and 17).

In other words, one can simply slide the shelf portions of the claimed invention with respect to one another to adjust them, rather than having to hook and re-hook a separate frame 10 onto the shelf as required by the Merl patent.

Accordingly, even if the Bustos and Merl references were properly combined, the claimed invention would not result.

#### IV. New Claims

Claim 14 was rewritten to remove "wire" (e.g., the mounting system does not have to be made of wire), and "wire" was added in new claim 18. Claim 19 is claim 9 rewritten without the adjustable shelf limitation. As described by the specification, the claimed

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mounting system may be used with an adjustable shelf (see page 17), but it could also be used with a stationary or other non-adjustable shelf. Support for this claim appears in the specification at pages 14-16 and Figure 15.

### CONCLUSION

For at least the above reasons, Applicant respectfully requests allowance of the pending claims and issuance of a patent containing these claims in due course. If there remain any additional issues to be addressed, the Examiner is invited to contact the undersigned at 404.815.6147.

Respectfully submitted,

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